

## **REMARKS**

Claims 2, 4, 5, 7-10, 16, 17, 19, 20, 23, 24, 26, 32, 33, 36-39, 42-46, and 48-79 were previously pending in this Application. Claims 1, 3, 6, 9-15, 18-21, 22, 25, 27-31, 34, 35, 40, 41, 47, and 65-79 are canceled. Claim 2 is currently amended. As a result, claims 2, 4, 5, 7, 8, 16, 17, 23, 24, 26, 32, 33, 36-39, 42-46, and 48-64 are pending and under consideration by the Examiner in this Application. No new matter has been added to the Application by this Amendment.

Each of the rejections levied by the Examiner in the outstanding Office Action is discussed in turn below.

### *Claim Rejections under 35 U.S.C. § 103*

The Examiner has rejected claims 2, 4, 5, 7, 8, 16, 17, 20, 23, 24, 26, 32, 33, 36-39, 42-46, and 48-64 under 35 U.S.C. § 103(a) as being obvious over WO 2005/048933, WO 2005/018556, WO 2005/051324, and WO 2005/018551. The Examiner has cited WO 2005/048933, WO 2005/018556, WO 2005/051324, and WO 2005/018551 as prior art under § 102(e) against the present Application. The present Application is the U.S. national stage filing of WO 2005/048933; therefore, the '933 publication does not constitute prior art citable against the present Application. With respect to WO 2005/018556, WO 2005/051324, and WO 2005/018551, Applicant submits herewith Declarations under 37 CFR § 1.132 showing that the subject matter disclosed in these publications was not invented "by another" as required by § 102(e) to constitute prior art. WO 2005/048933, WO 2005/018556, WO 2005/051324, and WO 2005/018551 are not prior art under § 102(e); and therefore, these publications are not prior art citable against the present Application under § 103. Applicant respectfully requests that this rejection be removed.

### *Double Patenting Rejection*

The Examiner provisionally rejected claims 2, 4, 5, 7, 8, 16, 17, 20, 23, 24, 26, 32, 33, 36-39, 42-46, and 48-64 on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims of the U.S. Publication Nos. US 2009/0105295, US 2007/0066639, US 2008/0114019, and US 2009/0062328. Applicant defers discussion of this provisional rejection until it matures into an actual rejection.

Applicant believes no fee is due with this response. However, please charge any unpaid fees associated with this Response, or credit any overpayments, to our Deposit Account No. 23/2825, under Docket No. C1041.70076US01, from which the undersigned is authorized to draw.

Dated: April 27, 2010

Respectfully submitted,

By C. Hunter Baker/  
C. Hunter Baker, M.D., Ph.D.  
Registration Number: 46,533  
WOLF, GREENFIELD & SACKS, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
617.646.8000